

NEBRASKA ADMINISTRATIVE CODE

Title 68 - DEPARTMENT OF CORRECTIONAL SERVICES

Chapter 2 - GRIEVANCE PROCEDURES

001 Applicability. The provisions of this rule shall apply to all institutions operated by the Department of Correctional Services.

002 Departmental Policy. It is the policy of the Department to provide an inmate with a procedure for the administrative settlement of a legitimate grievance. Most valid grievances can be resolved quickly through informal direct contact with the staff of the institution who have responsibility for the particular area in which the problem arose. Inmates must use such a method prior to initiating a formal grievance. A grievance shall not be considered a formal grievance until the inmate has initiated the grievance procedure by submitting a Step-One Grievance Form to his/her Chief Executive Officer's designee. Any topic may be the subject of a grievance, except matters over which the Department has no control, classification actions, and inmate disciplinary actions. Disciplinary actions are appealable under the procedure described in Chapter 6, and classification actions are appealable to the next higher classification authority.

003 Grievance Principles. The following guidelines shall be applied to the grievance procedure.

003.01 Persons filing. Each inmate in the custody of the Department shall be permitted to report a grievance.

003.02 Informal Resolution. Inmates shall submit the inmate concern to the unit staff member who can most adequately respond on an informal Grievance Resolution Form. If dissatisfied with the informal response the inmate may file a grievance for formal resolution.

003.03 Method of Processing Step-One Formal Grievance. If the response on the inmate concern is unacceptable, the inmate may file a complaint with the Chief Executive Officer on a Step-One Grievance Form. Such grievances shall be transmitted without alteration, interference or delay to the appropriate staff members who are authorized to receive and investigate grievances.

003.04 Adverse Action. No inmate who utilizes the formal grievance procedure shall be subject to any type of disciplinary sanction or other adverse action for exercising the right to report grievances. However, language used in grievances is subject to DCS Rules 5 & 6.

003.05 Prompt Written Response. Each grievance shall be reviewed and, if necessary, investigated further. The grievant shall receive a prompt written response insofar as possible. Extenuating circumstances such as illness, injury, or unavailability of a witness may lengthen the response time. The response shall indicate the suggested disposition of the grievance.

003.06 Confidentiality. Inmate grievances shall be treated in a confidential manner. Only those individuals whose involvement is needed to complete the investigation of the grievance shall be made aware of its existence. Individuals contacted during an investigation shall only be made aware of the information needed to allow them to contribute meaningfully to the investigation. Consistent with ensuring confidentiality, staff who participate in the disposition of a grievance shall have access to records essential to the resolution of the grievance. If the inmate is of the opinion that a grievance is of a sensitive nature, a grievance may be filed directly with the Director and mailed as privileged mail. The inmate must clearly explain the nature of the complaint and the reasons for not following the regular grievance procedure. If the Director determines that the grievance is not of a confidential nature, the grievance shall be returned to the inmate. After consideration of the grievance and determination that it is of a confidential nature, the Director shall conduct any necessary investigation. If the investigation indicates that action should be taken, the Director shall cause the appropriate steps to be taken

to resolve the grievance.

004 Grievance Procedure. The following procedure shall apply to inmate grievances.

004.01 When an inmate submits a concern for informal resolution, unit staff will log the informal grievance and investigate the complaint. The Informal Grievance Resolution Form may be obtained from unit staff and must be filed within three calendar days of the incident of concern. Unit staff will investigate the complaint and prepare a written response within ten working days.

004.02 If an inmate wishes to pursue a formal grievance it is the inmate's responsibility to secure the required Step-One Grievance Form. The Grievance Form may be obtained from the inmate's case manager. Such grievances must be filed within 15 calendar days of the receipt of the informal response, or if no response was received, within 20 calendar days of the incident giving rise to the complaint. The inmate may address only one issue on a formal grievance or it will be returned to him/her. The original inmate Informal Grievance Resolution Form and response must be attached. If the inmate did not receive a response to his/her concern, he/she must attach a copy of the original submission so indicating. The formal grievance process shall begin when the inmate has completed the inmate portion of the Step-One Grievance Form and submitted it to the Chief Executive Officer's designee. Upon receipt of the Grievance Form from the inmate, the Chief Executive Officer's designee shall sign and date the Grievance Form, which invokes the time limit provided in subsection 004.03, below.

004.03 The Chief Executive Officer's designee shall review and, if necessary, further investigate the grievance. The results shall be communicated to the Chief Executive Officer and include a proposed resolution of the grievance. The Chief Executive Officer will review the suggested relief, and will forward a written response to the inmate within ten working days after receipt of the grievance. The response shall include a brief statement of the reason or reasons for the decision reached.

004.04 If the inmate wishes to appeal the relief suggested, he/she shall then obtain a Step-Two Grievance Form from his/her case manager for appeal to the Director.

004.05 If the inmate decides to appeal to the Director, the inmate shall submit the Step-Two Grievance Form to the Director by inter-office mail within 10 calendar days after receipt of the Chief Executive Officer's response. A copy of the informal grievance and response and Step I Grievance and response must be attached. If the grievance is in an envelope it shall be clearly marked to indicate that it contains a Grievance Form. It may be mailed in compliance with the Department's rules governing privileged mail. The inmate may include additional information on the Grievance Form, which information shall also be submitted to the Chief Executive Officer.

004.06 The Director shall complete the appropriate portion of the Step-Two Grievance Form and return the form to the inmate within twenty working days. The Director may rely upon the information compiled by the Chief Executive Officer's investigation or conduct additional investigation. The Director is not bound by a previous decision to deny the relief suggested by the Chief Executive Officer.

004.07 An inmate shall be limited to two formal Step-One grievances per week (Monday through Sunday), except for valid emergency grievances. Emergency grievances are those matters which must be resolved quickly because if the standard grievance time limits were used the inmate would be subjected to a substantial risk of personal injury or other serious and irreparable harm. Emergency Grievances may be filed on informal grievance forms, and will be responded to by Unit Staff. If an inmate files large numbers of frivolous, nuisance or duplicative grievances at any level, a designee of the Chief Executive Officer of the facility will conduct a hearing to determine whether the inmate is abusing the grievance process. If a determination is made that the inmate is abusing the grievance process, a reasonable limitation may be placed on the number of grievances which may be filed by the inmate.

005 Other Remedies Not Precluded. Inmates shall be allowed to communicate grievances to persons

outside the Department and nothing herein shall preclude an inmate from communicating a grievance to the Office of the State Ombudsman, legislators, attorneys, courts, or other appropriate individuals or groups at any time.

005.01 Claims against the Department involving miscellaneous or tort claims for money damages may be filed pursuant to the State Tort Claims Act.

005.02 Each facility shall ensure that inmates confined there have reasonable access to courts and to legal services and materials.

005.03 Inmates will be permitted to circulate petitions for signatures as long as the petitions do not violate or propose a violation of the Department's rules or state or federal law, or interfere with the security or good order of the facility. The petition procedure shall be the method through which inmates may play an advisory role in the disposition of grievances challenging general Department policies and practices. Specifically, inmates may petition the Chief Executive Officer of a facility or the Director of the Department requesting specific relief concerning a grievance which challenges a Department policy or practice. Any such petition must state the nature of the proposed change in Department policy or practice and the reason for the proposed change; must state the circulator's full name and mailing address; and contain the legible signatures, inmate numbers, mailing addresses, and dates of signatures of all others purporting to support the petition.

The petition shall be considered by the Chief Executive Officer or Director when responding to the grievance which the petition concerns as long as the petition is attached to the grievance or grievance appeal or is submitted to the Chief Executive Officer or Director before the grievance or grievance appeal has been answered. A copy of the petition will be kept by the Chief Executive Officer or Director along with the record of the grievance which the petition concerns.

General Statutory Authority: Neb. Rev. Stat. §§83-4, 111 and 83-4, 135 through 83-4, 139; and 42 U.S.C. § 1997 e.